



Republican Policy Committee

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Senate Must Act by September 14

The Chemical Weapons Convention: The Treaty's Impact on U.S. Business

According to the unanimous consent agreement entered into on June 28, 1996, the Senate will move into executive session for consideration of the Chemical Weapons Convention [Treaty Doc. 103-21, Executive Calendar No. 12] prior to September 14. The resolution of ratification was reported favorably by the Committee on Foreign Relations on April 30, 1996, by a vote of 13 to 5, with Senators Helms, Brown, Coverdell, Grams, and Ashcroft voting against the resolution. As the Senate prepares to act on the Chemical Weapons Convention (CWC), several issues will figure prominently. (For additional details, see RPC's "The Chemical Weapons Convention: Impact on U.S. Business Could Be Far-Reaching," 7/29/96.) Among these are:

Is the CWC verifiable?

- Then-Director of the CIA James Woolsey before the Foreign Relations Committee (June 1994): "The chemical weapons problem is so difficult from an intelligence perspective that I cannot state that we have high confidence in our ability to detect noncompliance, especially on a small scale."
- States believed to possess chemical weapons that have not signed the CWC (and thus are not bound by its provisions): **Egypt, Iraq, Libya, North Korea, Syria, and Taiwan.**
- Chemical weapons countries that have *signed* the CWC but might not *ratify* it: **China, India, Iran, Israel, Pakistan, and Russia.**

How Would the CWC Be Enforced?

- The CWC bans the development, production, acquisition, stockpiling, retention, and transfer of chemical weapons. (Actual use of chemical weapons, though not their production or possession, has been banned since the Geneva Protocol of 1925.)
- The CWC creates a new international body, the **Organization for the Prohibition of Chemical Weapons (OPCW)** — with a **Technical Secretariat** and 41-member **Executive Council** — to oversee enforcement of the treaty.
- The United States would pay **25 percent** of the OPCW's cost. The United States would not necessarily be represented on the Executive Council, **nor is there a U.S. "veto."**

- The CWC creates a substantial program of **reporting requirements and inspections** for companies that produce or use regulated chemicals. Most chemicals regulated under the CWC have **legitimate commercial applications** and are **widely used in industry**.
- The lists of regulated chemicals and inspection procedures **could be modified after U.S. ratification**; it is **unlikely** that such changes would require **Senate advice and consent**.

What Would Be the CWC's Impact on U.S. Industry?

- The CWC is the **first treaty in history** that would subject private U.S. companies to **direct, on-site verification** by an international authority. There is sharp disagreement over how many and which firms and production sites would be affected by the CWC. According to data supplied by the Commerce Department, the Foreign Relations Committee estimates that **3,000 to 8,000 companies (many with multiple sites)** produce CWC-regulated material. The Chemical Manufacturers Association (which supports CWC ratification and represents 190 companies producing chemicals more strictly regulated under the treaty) estimates that **only 2,000 sites** would be affected.
- There are **two kinds of inspections: routine** (up to two per year per site) and **challenge** (unlimited). Inspectors could interview site personnel, inspect records, photograph on-site apparatus, take samples, record equipment readings, and monitor processes. Inspected companies are responsible for **inspection costs**, which could be substantial.
- **Federal implementing legislation (S. 1732)** would create a **new federal office** (the "National Authority") for liaison with the OPCW. The Commerce Department would issue regulations to require U.S. domestic compliance with the CWC's inspection and reporting requirements. Violations could cost up to **\$50,000**. U.S. Government "**representatives**" (OSHA? EPA?) would accompany international inspectors.

What Other Potential Risks Exist for U.S. Business?

- There are **constitutional concerns**. Inspections would **not require a warrant or probable cause** that a banned activity was being conducted. Inspected companies would receive **no compensation** for inspection costs (such as shutdowns) or for samples taken.
- There are concerns about the **loss of proprietary information**. Inspection teams could include nationals from states known to conduct **industrial espionage** against U.S. companies (Brazil, China, France). Samples and other inspection data could be sent to laboratories in such countries for analysis. **Loss of trade secrets** could be substantial.
- The CWC restricts exports of some chemicals to non-CWC countries. There are concerns about U.S. **access to the global market** in chemicals if the CWC is not ratified.